

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GEORGE H. ZYLKS,

Defendant.

Case No. 15-00025-01-CR-W-BP

MOTION TO DISMISS INDICTMENT

Comes now Jeffrey Q. McCarther, Assistant United States Attorney, and moves the Court to dismiss the Indictment (Doc. 1) filed on January 27, 2015, as to Defendant George H. Zylks. In support, the United States lists the following facts:

1. After arraignment on February 17, 2015, Magistrate Judge Robert Larsen ordered a mental exam of Defendant to determine his competency to understand the nature and consequences of the proceedings against him or to assist properly in his defense. Doc. 15.
2. After evaluation, Defendant was determined to be suffering from a severe mental illness and to be “unable to understand the nature and consequences of the proceedings against him, and to assist properly in his defense.” *See* June 12, 2015 Forensic Evaluation Report of Dr. Dawn Graney.
3. On July 9, 2015, the Court found Defendant incompetent to proceed and ordered Defendant to be “committed to the custody of the Attorney General for hospitalization and treatment pursuant to 18 U.S.C. § 4241(d).” Doc. 23.
4. Prior to that Order’s execution, Defendant suffered a “catastrophic stroke.” Doc. 24 at 2-3.
5. Defendant was again evaluated for determination of competency and “dangerousness” pursuant to 18 U.S.C. § 4241(d). *See generally* Doc. 24.
6. Based on that stroke, and Defendant’s prior deficits, Defendant was again determined to be incompetent to proceed and that “even the most optimistic expectations” would fall short of Defendant ever being restored to competency. Doc. 24 at 3-4. Defendant was further determined, based on his condition, not to

pose “an increased risk of danger to others or the property of others as a result[.]”
Id. at 4.

Defendant remains incompetent and will, in all likelihood, remain bedridden the rest of his life. Thus, based on the foregoing, the United States moves for the dismissal of the Indictment (Doc. 1) without prejudice.

Respectfully submitted,

Tammy Dickinson
United States Attorney

By /s/Jeffrey Q. McCarther

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on this 3rd day of May 2016, to the Electronic Filing System (CM/ECF) of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

/s/Jeffrey Q. McCarther
Jeffrey Q. McCarther
Assistant United States Attorney